

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Chao et al.

Serial No: **10/779,431**

Art. Unit: 1609

Filing Date: March 12, 2004

Examiner: Palenick

For: CONTROLLED RELEASE POLYMERIC GELS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REASONS FOR TRAVERSE OF RESTRICTION REQUIREMENT

Examiner Palenik requested in a telephone communication on Feb. 26, 2008, that applicants file reasons for their telephonic traversal of the restriction requirement.

Claims 1-22 (Group I) were elected with traverse because the remaining claims, 23-30, are not directed to one or more independent and distinct inventions.

According to the restriction requirement, Groups I & II "can have materially different designs * * * and thus may have different modes of operation, functions or effects." On the contrary, the articles of Group II formed from the compositions of Group I would have the same design, mode of operation, function, and effects. Group II is fully dependent on Group I. Therefore these two groups are not independent and distinct.

The restriction requirement alleges that inventions I, II, and III are distinct because the process can be practiced with a materially different product and vice versa. Applicants disagree. The process claims require the product. The product can not be used in a materially different process. Therefore these three groups are not independent and distinct.

The restriction requirement alleges that inventions IV and I and II are distinct because the product can be made by a materially different process or the process can be used to make a materially different product, citing Waki U.S.Pat. 7,008,994. In fact, Waki '994 contains